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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,769	12/29/2000	Judith K. Gwathmey	G2000-7000	5078

7590 02/03/2004

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EXAMINER

SAUNDERS, DAVID A

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/751,769	Applicant(s) GWATHMEY, JUDITH K.	
	Examiner David A Saunders, PhD	Art Unit 1644	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 11/14/03. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: SEE ATTACHED

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-8, 10-12, 30-32

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

The amendment is nonresponsive because it fails to follow 37 CFR 1.121. Specifically, the status of claims 13-29 is incorrectly indicated as withdrawn; these were cancelled in the amendment of 2/19/03. Also, the markings in claim 10 may be technically correct, but they are confusing; in line 1 applicant has underlined "3" before the "1"; it is not clear if applicant intends this to be dependent from claim 31 or from claim 3 (Did applicant intend to strike out the "1" or not?). It is suggested applicant strike out "1" and enter the intended number, irrespective of whether it is 31 or 3.

The amendment to claims 1 and 8 may properly address the 101 and 112 issues of record of the last office action; however, it raises new issues requiring new prior art searches, by virtue of changing the nature of the targeting component(s) of the lipid carrier. Amended claims 1 and 8 will thus not be entered.

The amendment to claim 7 does not appear to be in response to any rejection of record. By virtue of not depending on claim 1, with the limitations thereof, claim 7 would thus define a different invention, requiring new considerations regarding new matter and new prior art searches. Amended claim 7 will thus not be entered.

The amendment to claim 10 adds a new Markush group member and would thus define a different invention, requiring new considerations regarding new matter and new prior art searches. Amended claim 10 will thus not be entered.

The amendment to claims 31-32 raises new issues by virtue of changing the nature of the targeting component of the lipid carrier and would thus define a different invention, requiring new considerations regarding new matter and new prior art searches. Amended claims 31-32 will thus not be entered.

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New claims 33-38 are an excessive number of new claims and will not be entered.

Amendment to claim 30 addresses 112 issues of record and would be enterable in a separate amendment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Saunders, PhD whose telephone number is 571-272-0849.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at 571-272-0841.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0507.

Typed 1/29/04 DAS

David A Saunders
DAVID SAUNDERS
PRIMARY EXAMINER
ART UNIT ~~182~~-1644